Tab 3

# New York, NY

August 16, 2005

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THE UNITED STATES DISTRICT COURT	
FOR THE DISTRICT OF MASSACHUSETTS	
MDL Docket No. 01Cv12257-PBS	
*	·
In re: PHARMACEUTICAL INDUSTRY )	
AVERAGE WHOLESALE PRICE )	
LITIGATION )	
*	1
THIS DOCUMENT RELATES TO:	
ALL ACTIONS )	
*	
Tuesday, August 16, 2005	
New York, New York	
Time: 9:57 a.m.	
Deposition of DANA FAULKNER, held at the	
offices of Hogan & Hartson, LLP, 875 Third Avenue,	
New York, New York, as taken before Josephine H.	
Fassett, a Shorthand Reporter and Notary Public of	
the State of New York.	

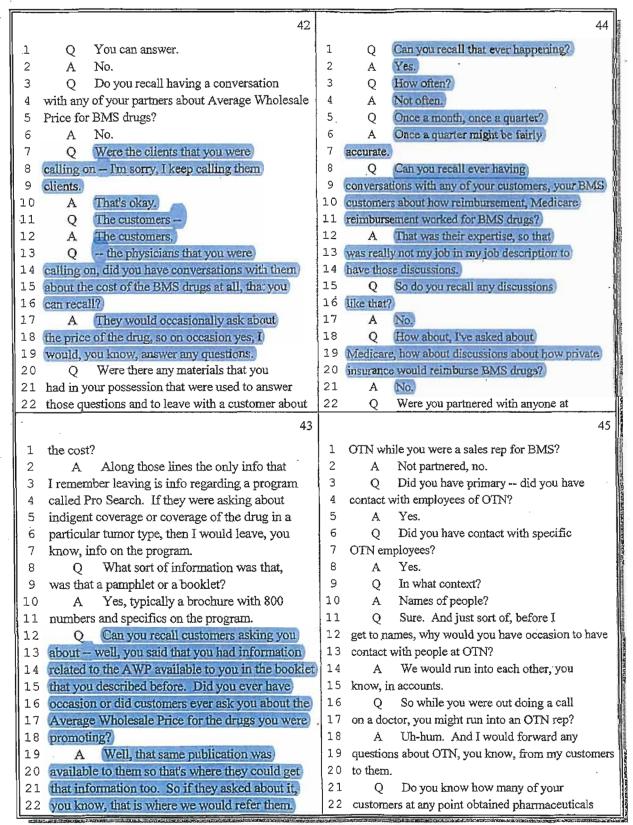
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	30		32
1	meeting.	1	A HR information mostly regarding
2	A No, not prior to the meeting.	2	pension and things like that.
3	Q So prior to your meeting with	3	Q I want to talk a little bit about
4	counsel yesterday you didn't have an independent	4	your interaction with customers while you were
5	understanding	5	working at BMS.
6	A Awareness.	6	A Okay.
7	Q of what this litigation was	7	Q What sort of information were your
8	about?	8	customers interested in when you called on them?
9	A No.	9	A They were interested in the
10	Q Were you involved at all in the	10	scientific data, the studies that were being
11	search for documents that may have been requested	11	reported regarding the use of my drugs and various
12	by the plaintiffs in relation to this litigation?	12	tumor types.
13	A I was asked to look for anything	1	Q Did customers ever ask you about
14	that I might have had.	14	well, let me back up and ask you: Do you have an
15	Q And did you?	15	understanding of how the drugs you were promoting,
16	A Yes.	16	when you were an employee at BMS, how they were
17	Q Did you find anything?	17	reimbursed by the Medicare program?
18	A No.	18	A We had an understanding of how that
.19	Q Can I ask just a little bit more	19	worked, yes.
20	detail about that search? Where did you look for	20	Q And can you tell me what you
21	documents?	21	understood how that worked?
22	A In files that are in my basement.	22	A Well, the
	31		33
1	Q And these are files that you	1	MR. ZUCKER: By that do you mean
2	collected during your employment at BMS?	2	Medicare Part B reimbursement?
3	A Yes.	3	MR. NOTARGIACOMO: Right.
4	Q What sort of documents, when you	4	A So the common denominator I guess
5	were looking through those files, what sort of	5	was the AWP that Medicare would use and the office
6.	documents were you looking for?	6	was reimbursed at a percentage of AWP for the
7	A Any call report, memos to	7	drugs that they used.
8	supervisors, things like that.	8	Q This was an understanding you had
9	Q Were you looking for those	9	while you were employed at BMS?
10	categories of documents, anything that fell into	10	A Yes.
11	those categories of documents or was there	11	Q What about reimbursement for
12	something more specific you were looking for? In	12	oncology drugs by private insurers, did you have
13	other words, were you looking for any call report	13	an understanding at that point as to how
14	or call reports that relate to a specific topic?	14	reimbursement worked?
15	A No, I was looking for any.	15	A No, not particularly, no.
16	Q What about, did you have any	16	Q Did you have an understanding that
17	electronic files that were dated during your	17	AWP played a part in the reimbursement by many
18	employment?	18	private insurers?
19		19	A The understanding that I had was
20	Q Other than the files in your	20	generally that the privates followed what Medicare
21		21	did, beyond that, I don't I wasn't familiar
	pasement and you keep any other documents related		era, oeyona mar, r don r r wash r familiar
22	to your employment at BMS?	22	with any specifics.

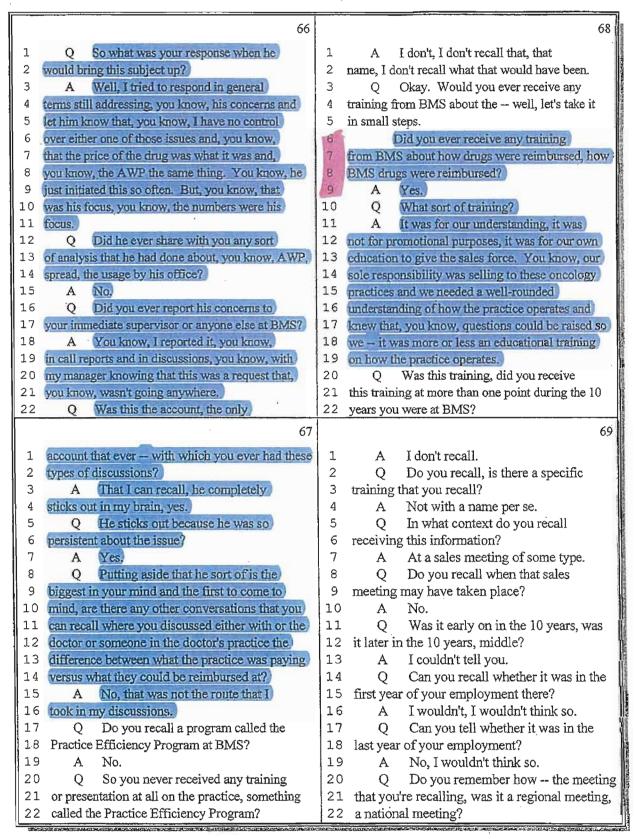
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	34		26
N .	34	1	36
1	Q What about the Medicaid program, did	1	A Usually the sales force.
2	you have an understanding about how that	2	Q Do you know how often you'd receive
3	reimbursed for drugs?	3	one of those voicemails?
4	A Not really.	4	A No.
5	Q When you were a sales rep for BMS,	5	Q Was it on a monthly basis, a weekly
6	did you have an understanding or did you have	6	basis, a daily basis?
7	knowledge about what the AWP was with the drugs	7	A No. It might have been, you know,
8	that you were promoting?	8	if there were any pricing changes is the only time
9	A Yes.	9	that would occur.
120	Q And how did you gain that	10	Q Do you ever recall receiving any
11	information?	11	written information about the price, about price
12		12	changes?
13	"	13	A I just do not recall.
14		14	Q Now, you were notified of price
15		15	changes by voicemail, do you know whether your
16		16	customers had contracts with BMS that may have
17		17	differed from the price that you were, you know,
18	-	18	the price information that you received by
19		19	voicemail?
20	-	20	A Not that I'm aware of.
21		21	Q So as far as you're aware, they were
22		22	all paying whatever the prevailing price was that
	35		37
3.0	Q What about, putting aside the AWP	1500	
1 3	Q what about, putting aside the Awr	王	you were notified of by voicemail?
2	for a second, what about the price that your	2	you were notified of by voicemail?  A Yes.
2 3	" "	3	1
2 3 4	for a second, what about the price that your		A Yes.
3	for a second, what about the price that your customers were paying for the drugs you were	3	A Yes.  Q And you didn't were you involved
3	for a second, what about the price that your customers were paying for the drugs you were promoting, did you have an understanding what the	3 4	A Yes.  Q And you didn't were you involved at all in the contracting process with any of your
3	for a second, what about the price that your customers were paying for the drugs you were promoting, did you have an understanding what the price they were paying was?	3 4 5	A Yes.  Q And you didn't - were you involved  at all in the contracting process with any of your customers -
3	for a second, what about the price that your customers were paying for the drugs you were promoting, did you have an understanding what the price they were paying was?  A Yes.	3 4 5 6	A Yes.  Q And you didn't were you involved at all in the contracting process with any of your customers  A No.
3 4 5 6 7	for a second, what about the price that your customers were paying for the drugs you were promoting, did you have an understanding what the price they were paying was?  A Yes.  Q How did you come to have that	3 4 5 6 7	A Yes.  Q And you didn't were you involved at all in the contracting process with any of your customers  A No.  Q if there was one?
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